THE BOMBAY NURSING HOMES REGISTRATION ACT, 1949.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Prohibition to carry on nursing home without registration.
4. Application for registration.
5. Registration.
6. Penalty for non-registration.
7. Cancellation of registration.
8. Notice of refusal or of cancellation of registration.
9. Inspection of nursing homes.
10. Income of local supervising authority.
11. Expenses of local supervising authority.
12. Penalty for offences under Act.
13. Offences by corporations.
14. Court competent to try offences under Act.
15. Indemnity to persons acting under this Act.
16. Rules.
17. By-laws.
18. Saving.

BOMBAY ACT No. XV OF 1949.[1]

[THE BOMBAY NURSING HOMES REGISTRATION ACT, 1949.]

[*6th May 1949.*]

An Act to provide for the registration and inspection of nursing homes in the Province of Bombay and for certain purposes connected therewith.

WHEREAS it is expedient to provide for the registration and inspection of nursing homes in the Province of Bombay and for certain purposes connected therewith; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Nursing Homes Registration Act, 1949.

(*2*) This section extends to the whole of the Province of Bombay. The remaining provisions of this Act extend in the first instance to the Greater Bombay and the areas within the limits of the Municipal Boroughs of Ahmedabad, Poona City, Poona Suburban and Sholapur and the Provincial Government may, by notification in the *Official Gazette*, direct that the said provisions shall extend to such other areas as may be specified in the notification.

(*3*) This section shall come into force at once. The Provincial Government may, by notification in the *Official Gazette*, direct that the remaining provisions of this Act shall come into force in any area to which the said provisions extend or may have been extended under sub-section (*2*) on such date as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) "by-laws" means by-laws made by the local supervising authority;

(*2*) "local supervising authority" in the case of a municipal area means the municipality established for such area, and in the case of any other area a district local board established for the said area;

(*3*) "maternity home" means any premises used, or intended to be used, for the reception of pregnant women or of women in or immediately after child birth;

(*4*) "nursing home" means any premises used or intended to be used, for the reception of persons suffering from any sickness, injury or infirmity and the providing of treatment and nursing for them, and includes a maternity home; and the expression "to carry on a nursing home" means to receive persons in a nursing home for any of the aforesaid purposes and to provide treatment or nursing for them;

(*5*) "prescribed" means prescribed by rules made under this Act;

(*6*) "qualified medical practitioner" means a medical practitioner registered under the Bombay Medical Act, 1912, or any other law for the time being in force;

Bom. VI of 1912.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Part V, page 84.

(*7*) " qualified midwife " means a midwife registered under the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935; Bom. VII of 1935.

(*8*) " qualified nurse " means a nurse registered under the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935; Bom. VII of 1935.

(*9*) " register " means to register under section 5 of this Act and the expressions " registered " and " registration " shall be construed accordingly;

(*10*) " rules " means rules made under this Act.

Prohibition to carry on nursing home without registration.

3. No person shall carry on a nursing home unless he has been duly registered in respect of such nursing home and the registration in respect thereof has not been cancelled under section 7:

Provided that nothing in this section shall apply in the case of a nursing home which is in existence at the date of the commencement of this Act, for a period of three months from such date or if an application for registration is made within that period in accordance with the provisions of section 4 until such application is finally disposed of.

Application for registration.

4. (*1*) Every person intending to carry on a nursing home shall make every year an application for registration or the renewal of registration to the local supervising authority:

Provided that in the case of a nursing home which is in existence at the date of the commencement of this Act an application for registration shall be made within three months from such date.

(*2*) Every application for registration or the renewal of registration shall be made on such date and in such form and shall be accompanied by such fee, as may be prescribed.

Registration.

5. (*1*) Subject to the provisions of this Act and the rules, the local supervising authority shall, on the receipt of an application for registration, register the applicant in respect of the nursing home named in the application and issue to him a certificate of registration in the prescribed form:

Provided that the local supervising authority may refuse to register the applicant if it is satisfied—

(*a*) that he, or any person employed by him at the nursing home, is not a fit person, whether by reason of age or otherwise, to carry on or to be employed at a nursing home of such a description as the nursing home named in the application; or

(*b*) that the nursing home is not under the management of a person who is either a qualified medical practitioner or a qualified nurse and who is resident in the home, or that there is not a proper proportion of qualified nurses among the persons having the superintendence of or employed in the nursing of the patients in the home; or

(*c*) that in the case of a maternity home it has not got on its staff a qualified midwife; or

(*d*) that for reasons connected with the situation, construction, accommodation, staffing or equipment, the nursing home or any premises used in connection therewith are not fit to be used for a nursing home of such a description as the nursing home mentioned in the application or that the nursing home or premises are used or are to be used for purposes which are in any way improper or undesirable in the case of such nursing home.

(*2*) A certificate of registration issued under this section shall, subject to the provisions of section 7, be in force and shall be valid until the 31st day of March next following the date on which such certificate was issued.

(*3*) The certificate of registration issued in respect of a nursing home shall be kept affixed in a conspicuous place in the nursing home.

Penalty for non-registration.

6. Whoever contravenes the provisions of section 3, shall, on conviction, be punished with fine which may extend to five hundred rupees or, in the case of a second or subsequent offence, with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Cancellation of registration.

7. Subject to the provisions of this Act, the local supervising authority may at any time cancel the registration of a person in respect of any nursing home on any ground which would entitle it to refuse an application for the registration of that person in respect of that home, or on the ground that that person has been convicted of an offence under this Act or that any other person has been convicted of such an offence in respect of that home.

Notice of refusal or of cancellation of registration.

8. (*1*) Before making an order refusing an application for registration or an order cancelling any registration, the local supervising authority shall give to the applicant or to the person registered, as the case may be, not less than one calendar month's notice of its intention to make such an order, and every such notice shall state the grounds on which the local supervising authority intends to make the order and shall contain an intimation that if within a calendar month after the receipt of the notice the applicant or person registered informs the authority in writing that he desires so to do, the local supervising authority shall, before making the order, give him (in person or by a representative) an opportunity of showing cause why the order should not be made.

(*2*) If the local supervising authority, after giving the applicant or the person registered an opportunity of showing cause as aforesaid, decides to refuse the application for registration or to cancel the registration, as the case may be, it shall make an order to that effect and shall send a copy of the order by registered post to the applicant or the person registered.

(*3*) Any person aggrieved by an order refusing an application for registration or cancelling any registration may, within a calendar month after the date on which the copy of the order was sent to him, appeal to the Provincial Government against such order of refusal. The decision of the Provincial Government on any such appeal shall be final.

(*4*) No such order shall come into force until after the expiration of a calendar month from the date on which it was made or, where notice of appeal is given against it, until the appeal has been decided or withdrawn.

Inspection of nursing homes.

9. (*1*) The Health Officer of the local supervising authority or the Civil Surgeon of the district in which a nursing home is situated or any other officer duly authorised by the local supervising authority or the Civil Surgeon, may, subject to such general or special orders as may be made by the local supervising authority, at all reasonable times enter and inspect any premises which are used, or which that officer has reasonable cause to believe to be used, for the purpose of nursing home, and inspect any records required to be kept in accordance with the provisions of this Act :

Provided that nothing in this Act shall be deemed to authorise any such officer to inspect any medical record relating to any patient in a nursing home.

(*2*) If any person refuses to allow any such officer to enter or inspect any such premises as aforesaid, or to inspect any such records as aforesaid or obstructs any such officer in the execution of his powers under this section, he shall be guilty of an offence under this Act.

Income of local supervising authority.

10. Any fees received under this Act shall be paid into the fund of the local supervising authority.

Expenses of local supervising authority.

11. Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a local supervising authority under and for the purposes of this Act and the rules and by-laws may be paid out of the municipal or local fund, as the case may be.

Penalty for offences under Act.

12. Whoever contravenes any of the provisions of this Act or of any rule shall, if no other penalty is elsewhere provided in this Act or the rules for such contravention, on conviction, be punished with fine which may extend to fifty rupees and in the case of a continuing offence to a further fine of fifteen rupees in respect of each day on which the offence continues after such conviction.

Offences by corporations.

13. Where a person committing an offence under this Act is a company or other body corporate or an association of persons (whether incorporated or not), every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Court competent to try offences under Act.

14. No court other than that of a Presidency Magistrate or a Magistrate of the first class shall take cognizance of or try any offence under this Act.

Indemnity to persons acting under this Act.

15. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act, rules or by-laws.

Rules.

16. (*1*) The Provincial Government may, by notification in the *Official Gazette*, make rules to carry out all or any of the purposes of this Act.

(*2*) Without prejudice to the generality of the foregoing provisions such rules may prescribe—

(*a*) the form of the application to be made under section 4,

(*b*) the date on which an application for registration or renewal of registration to be made and the fees to be paid for such registration or renewal of registration,

(*c*) the form of the certificate of registration to be issued under section 5,

(*d*) for any other matter for which no provision has been made in this Act, and for which provision is, in the opinion of the Provincial Government, necessary.

(*3*) The power to make rules under this section shall be subject to the condition of previous publication in the *Official Gazette*.

By-laws.

17. (*1*) The local supervising authority may make by-laws not inconsistent with this Act or rules—

(*a*) prescribing the records to be kept of the patients received into a nursing home, and in the case of the maternity home, of miscarriages, abortions or still births occurring in the nursing home and of the children born therein and of the children so born who are removed from the home otherwise than to the custody or care of any parent, guardian or relative;

(*b*) requiring notification to be given of any death occurring in the nursing home.

(*2*) Any by-law made by a local supervising authority under this Act may provide that a contravention thereof shall be punishable—

(*a*) with fine which may extend to fifty rupees ; or

(*b*) with fine which may extend to fifty rupees and in the case of a continuing contravention, with an additional fine which may extend to fifteen rupees for every day during which such contravention continues after conviction for the first such contravention ; or

(*c*) with fine which may extend to fifteen rupees for every day during which the contravention continues after the receipt of a notice from the local supervising authority by the person contravening the by-law requiring such person to discontinue such contravention.

(*3*) No by-law made by the local supervising authority shall come into force until it has been confirmed by the Provincial Government with or without modification.

(*4*) All by-laws made under this section shall be published in the *Official Gazette.*

Saving.

18. Nothing in this Act shall apply to—

(*i*) any nursing home carried on by Government or a local authority or by any other body of persons approved by the Provincial Government in this behalf ; and

(*ii*) any asylum for lunatics or patients suffering from mental diseases, within the meaning of the Indian Lunacy Act, 1912.

IV of 1912.